

REMARKS

The Official Action mailed September 9, 2004, has been received and its contents carefully noted. This response is filed within two months of the mailing date of the Official Action and therefore is believed to be timely without extension of time. Accordingly, the Applicant respectfully submits that this response is being timely filed.

The Applicant notes with appreciation the consideration of the Information Disclosure Statements filed on October 13, 1998, June 2, 1999, September 13, 1999, May 18, 2000, September 6, 2000, November 2, 2000, January 29, 2001, April 9, 2001, July 17, 2001, September 12, 2001, October 1, 2002, October 11, 2002, and March 5, 2003. However, the Applicant has not received acknowledgment of the Information Disclosure Statement filed on May 29, 1998. Also, the Applicant notes the partial consideration of the Information Disclosure Statement filed on February 28, 2002. Specifically, it appears that the Examiner inadvertently overlooked the citation of U.S. Patent Application Serial No. 09/086,720 to Takemura. The Applicant respectfully requests that the Examiner provide an initialed copy of the Form PTO-1449 evidencing consideration of these Information Disclosure Statements.

Initially, Examiner Duong is thanked for taking time today to discuss the status of the present application via telephone. It was agreed that the Examiner will consider the present *Amendment* and contact the Applicant's representatives for a further telephone discussion if there are additional questions or concerns. Also, as briefly discussed during today's telephone discussion, the cover page of the Official Action indicates that the action is final (Office Action Summary, Paper No. 20040907) and the box for *Ex parte Quayle* was not checked; however, the body of the Official Action indicates that prosecution on the merits is closed (page 2, *Id.*). For the reasons stated in detail below, the Applicant respectfully submits that prosecution of the present application is not yet complete.

Claims 1-3, 5-8, 21, 22 and 24-27 are pending in the present application, of which claims 1, 5, 6, 21, 22, 24 and 25 are independent. Claims 1, 2, 5, 6, 21, 22, 24

and 25 have been amended to better recite the features of the present invention. The Applicant notes with appreciation the allowance of claims 1-3, 5, 21, 22 and 24 (Office Action Summary, Paper No. 20040907). For the reasons set forth in detail below, all claims are believed to be in condition for allowance. Favorable reconsideration is requested.


The Official Action asserts that claims 6-8 and 25-27 are withdrawn from consideration. Regarding claims 6-8, in the *Amendment and Response to Election* filed November 24, 1994 (Paper No. 5), the Applicant elected Group I, claims 1-8. The Applicant further elected Species A, claim 5, and asserted, in agreement with the Official Action, that claims 1-4 are generic to Species A and B, including claims 6-8. Therefore, it appears that claims 6-8 were properly withdrawn from consideration, but the Applicant respectfully submits that claims 6-8 should be further examined at this time in view of the allowance of generic claims 1-4. As such, the Applicant requests that the indication of the close of prosecution be reconsidered and withdrawn.

Regarding claims 25-27, the Official Action asserts that claim 25 is similar to non-elected original claim 9, and that claim 9 is directed to the embodiments of Figures 1(C) and 3(A). The Applicant respectfully submits that this argument was first presented in the Official Action mailed March 5, 1997, that the Applicant amended claims 25 and 26 and added claim 27 at that time, and responded to this argument in the *Amendment* filed June 4, 1997. It does not appear that the Official Action has responded to this argument. Also, the Applicant notes that claim 9 is a method claim and claim 25 is directed to an apparatus; therefore, claim 9 and claim 25 do not appear to be similar. In any event, the Applicant respectfully requests that the arguments originally presented in the *Amendment* filed June 4, 1997, be considered and that claims 25-27 be examined on the merits.

For the reasons stated above, the Applicant respectfully submits that prosecution be reopened on the merits.

Should the Examiner believe that anything further would be desirable to place this application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



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